

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

BRANDII JOHNSON)	
)	
Plaintiff,)	
)	
v.)	Cause No. 1:21-cv-398
)	
WAL-MART STORES EAST, L.P.)	
d/b/a Walmart SuperCenter)	
)	
Defendant.)	

**OPINION AND ORDER ADOPTING MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATION**

This matter is before the Court for an Order on the Magistrate Judge’s Report and Recommendation (“R & R”) (ECF No. 35) wherein the Magistrate Judge recommends the Court DISMISS the case *sua sponte* as a sanction against Plaintiff under Federal Rules of Civil Procedure 16(f) and 37(b)(2)(A)(v), and for failure to prosecute under Rule 41(b). The parties had fourteen days after being served with a copy of the R & R to file written objections thereto with the Clerk of Court. No objections to the R&R have been filed.

The undersigned has reviewed the Magistrate Judge’s R & R and the conclusions therein. Plaintiff failed to appear as ordered on November 1, 2022. (ECF No. 25). A show cause order issued directing the Plaintiff to appear telephonically on November 17, 2022. Plaintiff was advised that failure to appear would result in additional sanctions up to and including dismissal. (ECF No. 26). Again, Plaintiff failed to appear. The Court set three additional show cause hearings, (see ECF Nos. 28, 30, and 31) and plaintiff failed to appear at any of those hearings. Accordingly, the Magistrate Judge *sua sponte* issued an R & R recommending dismissal because of Plaintiff’s failure to prosecute her case. The Court finds that fair notice was given to the Plaintiff of the

various hearings and finds the Magistrate Judge's R & R rests on appropriate legal authorities and stands on a legally sound basis. The R & R is APPROVED AND ADOPTED. (ECF No. 35).

The case is DISMISSED pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. The Clerk is directed to enter judgment in favor of the Defendant.

SO ORDERED on February 27, 2023.

s/ Holly A. Brady

JUDGE HOLLY A. BRADY
UNITED STATES DISTRICT COURT